

AMENDED IN ASSEMBLY MAY 1, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1989**

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**Introduced by Assembly Member Chesbro**

February 20, 2014

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An act to amend Sections 25658 and 25662 of, and to add Section 25668 to, the Business and Professions Code, relating to alcoholic beverage control.

LEGISLATIVE COUNSEL’S DIGEST

AB 1989, as amended, Chesbro. Underage drinkers: students in winemaking and brewery science programs.

The Alcoholic Beverage Control Act provides that any person under 21 years of age who purchases any alcoholic beverage, who consumes any alcoholic beverage in any on-sale premises, or who possesses any alcoholic beverage on any street or highway or in any public place or any place open to the public is guilty of a misdemeanor. The Alcoholic Beverage Control Act provides that every person who sells, furnishes, gives, or causes to be sold, furnished, or given away any alcoholic beverage to any person under 21 years of age is guilty of a misdemeanor.

This bill would allow a qualified student to taste an alcoholic beverage and exempt the student and the qualified academic institution in which the student is enrolled from criminal prosecution under the above-described provisions, as provided. The bill would define the terms “qualified academic institution,” “qualified student,” and “taste” for the purposes of this provision.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 25658 of the Business and Professions Code is amended to read:

25658. (a) Except as otherwise provided in subdivision (c), every person who sells, furnishes, gives, or causes to be sold, furnished, or given away any alcoholic beverage to any person under 21 years of age is guilty of a misdemeanor.

(b) Except as provided in Section 25667 or 25668, any person under 21 years of age who purchases any alcoholic beverage, or any person under 21 years of age who consumes any alcoholic beverage in any on-sale premises, is guilty of a misdemeanor.

(c) Any person who violates subdivision (a) by purchasing any alcoholic beverage for, or furnishing, giving, or giving away any alcoholic beverage to, a person under 21 years of age, and the person under 21 years of age thereafter consumes the alcohol and thereby proximately causes great bodily injury or death to himself, herself, or any other person, is guilty of a misdemeanor.

(d) Any on-sale licensee who knowingly permits a person under 21 years of age to consume any alcoholic beverage in the on-sale premises, whether or not the licensee has knowledge that the person is under 21 years of age, is guilty of a misdemeanor.

(e) (1) Except as otherwise provided in paragraph (2) or (3), or Section 25667 or 25668, any person who violates this section shall be punished by a fine of two hundred fifty dollars (\$250), no part of which shall be suspended, or the person shall be required to perform not less than 24 hours or more than 32 hours of community service during hours when the person is not employed and is not attending school, or a combination of a fine and community service as determined by the court. A second or subsequent violation of subdivision (b), where prosecution of the previous violation was not barred pursuant to Section 25667 or 25668, shall be punished by a fine of not more than five hundred dollars (\$500), or the person shall be required to perform not less than 36 hours or more than 48 hours of community service during hours when the person is not employed and is not attending school, or a combination of a fine and community service as determined by the court. It is the intent of the Legislature that the community service requirements prescribed in this section require service at an alcohol or drug treatment program or facility or at a county

1 coroner's office, if available, in the area where the violation  
2 occurred or where the person resides.

3 (2) Except as provided in paragraph (3), any person who violates  
4 subdivision (a) by furnishing an alcoholic beverage, or causing an  
5 alcoholic beverage to be furnished, to a minor shall be punished  
6 by a fine of one thousand dollars (\$1,000), no part of which shall  
7 be suspended, and the person shall be required to perform not less  
8 than 24 hours of community service during hours when the person  
9 is not employed and is not attending school.

10 (3) Any person who violates subdivision (c) shall be punished  
11 by imprisonment in a county jail for a minimum term of six months  
12 not to exceed one year, by a fine of one thousand dollars (\$1,000),  
13 or by both imprisonment and fine.

14 (f) Persons under 21 years of age may be used by peace officers  
15 in the enforcement of this section to apprehend licensees, or  
16 employees or agents of licensees, or other persons who sell or  
17 furnish alcoholic beverages to minors. Notwithstanding subdivision  
18 (b), any person under 21 years of age who purchases or attempts  
19 to purchase any alcoholic beverage while under the direction of a  
20 peace officer is immune from prosecution for that purchase or  
21 attempt to purchase an alcoholic beverage. Guidelines with respect  
22 to the use of persons under 21 years of age as decoys shall be  
23 adopted and published by the department in accordance with the  
24 rulemaking portion of the Administrative Procedure Act (Chapter  
25 3.5 (commencing with Section 11340) of Part 1 of Division 3 of  
26 Title 2 of the Government Code). Law enforcement-initiated minor  
27 decoy programs in operation prior to the effective date of regulatory  
28 guidelines adopted by the department shall be authorized as long  
29 as the minor decoy displays to the seller of alcoholic beverages  
30 the appearance of a person under 21 years of age. This subdivision  
31 shall not be construed to prevent the department from taking  
32 disciplinary action against a licensee who sells alcoholic beverages  
33 to a minor decoy prior to the department's final adoption of  
34 regulatory guidelines. After the completion of every minor decoy  
35 program performed under this subdivision, the law enforcement  
36 agency using the decoy shall notify licensees within 72 hours of  
37 the results of the program. When the use of a minor decoy results  
38 in the issuance of a citation, the notification required shall be given  
39 to licensees and the department within 72 hours of the issuance of  
40 the citation. A law enforcement agency may comply with this

1 requirement by leaving a written notice at the licensed premises  
2 addressed to the licensee, or by mailing a notice addressed to the  
3 licensee.

4 (g) The penalties imposed by this section do not preclude  
5 prosecution or the imposition of penalties under any other provision  
6 of law, including, but not limited to, Section 272 of the Penal Code  
7 and Section 13202.5 of the Vehicle Code.

8 SEC. 2. Section 25662 of the Business and Professions Code  
9 is amended to read:

10 25662. (a) Except as provided in Section 25667 or 25668, any  
11 person under 21 years of age who has any alcoholic beverage in  
12 his or her possession on any street or highway or in any public  
13 place or in any place open to the public is guilty of a misdemeanor  
14 and shall be punished by a fine of two hundred fifty dollars (\$250)  
15 or the person shall be required to perform not less than 24 hours  
16 or more than 32 hours of community service during hours when  
17 the person is not employed or is not attending school. A second  
18 or subsequent violation shall be punishable as a misdemeanor and  
19 the person shall be fined not more than five hundred dollars (\$500),  
20 or required to perform not less than 36 hours or more than 48 hours  
21 of community service during hours when the person is not  
22 employed or is not attending school, or a combination of fine and  
23 community service as the court deems just. It is the intent of the  
24 Legislature that the community service requirements prescribed  
25 in this section require service at an alcohol or drug treatment  
26 program or facility or at a county coroner's office, if available, in  
27 the area where the violation occurred or where the person resides.  
28 This section does not apply to possession by a person under 21  
29 years of age making a delivery of an alcoholic beverage in  
30 pursuance of the order of his or her parent, responsible adult  
31 relative, or any other adult designated by the parent or legal  
32 guardian, or in pursuance of his or her employment. That person  
33 shall have a complete defense if he or she was following, in a  
34 timely manner, the reasonable instructions of his or her parent,  
35 legal guardian, responsible adult relative, or adult designee relating  
36 to disposition of the alcoholic beverage.

37 (b) Unless otherwise provided by law, where a peace officer  
38 has lawfully entered the premises, the peace officer may seize any  
39 alcoholic beverage in plain view that is in the possession of, or  
40 provided to, a person under 21 years of age at social gatherings,

1 when those gatherings are open to the public, 10 or more persons  
2 under 21 years of age are participating, persons under 21 years of  
3 age are consuming alcoholic beverages, and there is no supervision  
4 of the social gathering by a parent or guardian of one or more of  
5 the participants.

6 Where a peace officer has seized alcoholic beverages pursuant  
7 to this subdivision, the officer may destroy any alcoholic beverage  
8 contained in an opened container and in the possession of, or  
9 provided to, a person under 21 years of age, and, with respect to  
10 alcoholic beverages in unopened containers, the officer shall  
11 impound those beverages for a period not to exceed seven working  
12 days pending a request for the release of those beverages by a  
13 person 21 years of age or older who is the lawful owner or resident  
14 of the property upon which the alcoholic beverages were seized.  
15 If no one requests release of the seized alcoholic beverages within  
16 that period, those beverages may be destroyed.

17 (c) The penalties imposed by this section do not preclude  
18 prosecution or the imposition of penalties under any other provision  
19 of law, including, but not limited to, Section 13202.5 of the Vehicle  
20 Code.

21 SEC. 3. Section 25668 is added to the Business and Professions  
22 Code, to read:

23 25668. (a) A qualified student may taste an alcoholic beverage,  
24 and both the student and the qualified academic institution in which  
25 the student is enrolled shall not be subject to criminal prosecution  
26 under subdivision (a) of Section 25658 and subdivision (a) of  
27 Section 25662, if all of the following criteria are met:

28 (1) The qualified student tastes the alcoholic beverage while  
29 enrolled in a qualified academic institution.

30 (2) The qualified academic institution has established an  
31 Associate's degree or Bachelor's degree program in enology or  
32 brewing that is designed to train industry professionals in the  
33 production of wine or beer.

34 (3) The qualified student tastes the alcoholic beverage for  
35 educational purposes as part of the instruction in a course required  
36 for an Associate's degree or Bachelor's degree.

37 (4) The alcoholic beverage remains in the control of an  
38 authorized instructor of the qualified academic institution who is  
39 at least 21 years of age.

(b) Nothing in this section shall be construed to allow a student under 21 years of age to receive an alcoholic beverage unless it is delivered as part of the student's curriculum requirements.

*(c) A license or permit is not required to be held by a qualified academic institution engaging in the activities authorized by this section, provided an extra fee or charge is not imposed for the alcoholic beverages tasted.*

~~(e)~~

(d) For the purposes of this section, the following terms have the following meanings:

(1) "Qualified academic institution" means a public college or university accredited by a commission recognized by the United States Department of Education.

(2) "Qualified student" means a student enrolled in a qualified academic institution who is at least 18 years of age.

(3) "Taste" means to draw an alcoholic beverage into the mouth, but does not include swallowing or otherwise consuming the alcoholic beverage.